H.R. 2355, the "Health Care Choice Act"
Undermines State Consumer Protections

H.R. 2355, the "Health Care Choice Act" is promoted as a bill that would give consumers access to more affordable health insurance. But it allows insurance companies to discriminate against the sick and avoid more stringent State consumer protection regulations. This bill would also create a regulatory morass and make it easier for unscrupulous health insurers to defraud consumers. At the same time, those with various chronic diseases will soon face unaffordable insurance rates.

1. Undermines State Protections for Individuals with Cancer, Diabetes, Asthma, and Mental Illness.

H.R. 2355 would hurt people with very common illnesses by making it more difficult for them to get coverage or obtain needed benefits. Insurance companies would choose to locate in States that did not require coverage of certain benefits or conditions, thus removing State protections designed to ensure that individuals with cancer, diabetes, asthma, or other problems could obtain coverage and benefits. Florida, for example, prohibits insurers from turning away cancer survivors that have been in remission for more than five years. This bill would allow insurance companies to circumvent this protection by being licensed in a State that did not have this requirement. Forty-six States require insurers to cover diabetes benefits. This legislation would allow insurers to avoid providing that coverage by moving to one of the States that did not protect diabetics from discrimination. Individuals with cancer, diabetes, asthma, mental illness, and other chronic diseases would ultimately lose coverage or pay much higher premiums.

2. Undermines State Protections for Health Care for Pregnant Women and Children.

Thirteen States require insurance companies to cover maternity care. A number of other States require insurers to cover critical services for children, like cleft-palate surgery, infant hearing screening, and well-child care. Thirty-three States require coverage of phenylketonuria (PKU), which if untreated can result in mental retardation. H.R. 2355 would allow insurance companies to circumvent these protections by being licensed in a State that did not require them. It would also allow insurance companies to discriminate against pregnant women and children.

3. Undermines State Protections to Ensure Coverage Is Available to All Individuals.

A number of States do not allow insurance companies to discriminate in terms of who they will cover – the insurer must make a policy available to all who apply. This legislation would allow insurance companies to circumvent this consumer protection by locating in a different State.

4. Undermines State Protections to Ensure Coverage Is Affordable for Older Individuals or Those with Medical Needs.

A number of States do not allow insurance companies to discriminate against older or sicker people by charging higher premiums. Under this legislation, insurance companies could avoid these protections by locating in a State that did not have similar requirements. Older and sicker Americans would end up paying more or becoming uninsured.

5. Undermines State Protections to Prevent Fraud and Abuse.

The legislation requires an insurance company to comply with State laws regarding fraud and abuse in the State where the consumer lives, but the definition of "fraud and abuse" is so narrow and the standard so high that as a practical matter, States would have a difficult time prosecuting an insurer for defrauding consumers. Since out-of-state insurers would not be required to seek a license in the State where it sells policies, the primary enforcement tool – license revocation – would be unavailable.

6. Undermines State Protections to Prevent Insurer Insolvency.

Currently, State insurance commissioners can begin to initiate corrective action when warning signs of financial trouble begin to appear for a particular company. H.R. 2355 would prohibit States from forcing insurance companies to take corrective action until it was too late because it only allows them to intervene when the company is already in a hazardous financial condition. This would result in more insurance companies defaulting on their obligation to provide benefits.

7. Undermines State Patients Bill of Rights Protections.

A number of States have enacted important protections for patients – guaranteeing that insurers will treat individuals fairly and provide care when needed. States have enacted protections ensuring access to items such as specialty care, pediatric care for children, and an even access to recourse when a patient is injured by the poor medical judgment of a health plan. This legislation would allow insurers to avoid these consumer protections by choosing to locate in a State which does not offer such protections or which offers less stringent protections, undermining the laws of the State where the sales occur.